

U.S. Department of Labor

Occupational Safety and Health Administration
660 White Plains Rd
4th Floor
Tarrytown, NY 10591
Phone: 914-524-7510 Fax: 914-524-7515



Citation and Notification of Penalty

To:
SNE-MPCC-Mengler J.V.,LLC
1944 Route 22
Brewster, NY 10509

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
Issuance Date: 11/07/2014

Inspection Site:
33 Ashburton Ave.
Yonkers, NY 10701

Attn: Joseph Sisca, President.

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment

to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Right to Contest – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on OSHA Penalty Payment Form. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$50,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will process the payments as if these restrictions or conditions do not exist.

Notification of Corrective Action – For each violation which you do not contest, you must provide *abatement certification* to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that *abatement documentation* is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.

U.S. Department of Labor
Occupational Safety and Health Administration



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 11/07/2014. The conference will be held by telephone or at the OSHA office located at 660 White Plains Rd, 4th Floor, Tarrytown, NY 10591 on _____ at _____.

_____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 977714

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701
Issuance Date: 11/07/2014

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 660 White Plains Rd, 4th Floor, Tarrytown, NY 10591**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
Issuance Date: 11/07/2014



Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

On or about: 05/14/2014

Location: 33 Ashburton Ave.

a) Employees worked in unsafe environments and were not trained to recognize and avoid unsafe conditions.

NOTE: The employer is required to submit abatement certification for this item in accordance with 29 CFR 1903.19.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

12/05/2014
\$2000.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
Issuance Date: 11/07/2014



Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V., LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Citation 1 Item 2 Type of Violation: **Serious**

29 CFR 1926.404(b)(1)(ii): A 120 volt single phase 15 or 20 AMP outlet was not protected by a GFCI or an assured equipment grounding conductor program:

On or about: 5/14/2014

Location: Family building, 9th Floor stairwell

a) Employees used a Milwaukee hammer drill via an extension cord that were not protected by ground-fault circuit interrupters or an assured equipment grounding conductor program.

NOTE: Because abatement of this violation is already documented in the case file, the employer need not submit certification or documentation of abatement for this violation as normally required by 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$2000.00

U.S. Department of Labor

Occupational Safety and Health Administration

Inspection Number: 977714

Inspection Date(s): 05/14/2014 - 05/27/2014

Issuance Date: 11/07/2014



Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC

Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Citation 1 Item 3 Type of Violation: **Serious**

29 CFR 1926.404(f)(6): The path to ground from circuits, equipment, or enclosures was not permanent and continuous:

On or about: 7/1/2014

Location: Family building, 9th floor

a) Employees used a Milwaukee Hammer Drill which was missing a grounding pin.

NOTE: Because abatement of this violation is already documented in the inspection case file, the employer need not submit certification or documentation of abatement for this violation as normally required by 29 CFR 1903.19.

Date By Which Violation Must be Abated:

Proposed Penalty:

Corrected During Inspection

\$2000.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
Issuance Date: 11/07/2014



Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1926.501(b)(1): Each employee on a walking/working surface with an unprotected side or edge which was 6 feet (1.8 m) or more above a lower level was not protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest systems:

On or about: 5/14/2014

Location (a-d): Senior building, 5th floor.
(e): Family building, 6th floor

- a) Employees worked/walked by the edge of the 5th floor and were not protected from falling 5 stories to the ground below.
- b) Employees worked/walked by the edge of the elevator shaft and were not protected from falling 5 stories to the first floor of the senior building.
- c) Employees worked/walked by the back side of the stairwell and were not protected from falling 6 feet to the stairway below.
- d) Employees were sweeping up debris near the edge of the 4th floor and were not protected from falling 4 stories to the ground below.
- e) Employees worked/walked by the edge of the 6th floor and were not protected from falling 6 stories to the ground below.

NOTE: Because abatement of this violation is already documented in the inspection case file, the employer need not submit certification or documentation of abatement for this violation as normally required by 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$2800.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
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Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

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Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Citation 1 Item 5 Type of Violation: **Serious**

29 CFR 1926.701(b): All protruding reinforcing steel, onto and/or into which employees could fall or come against, were not guarded to eliminate the hazard of impalement:

On or about: 5/14/14

Location: Senior building, 5th floor.

a) Employees worked/walked around unprotected protruding rebar.

NOTE: Because abatement of this violation is already documented in the inspection case file, the employer need not submit certification or documentation of abatement for this violation as normally required by 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$2800.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
Issuance Date: 11/07/2014



Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Citation 1 Item 6 Type of Violation: **Serious**

29 CFR 1926.1052(c)(1): Stairways having four or more risers or rising more than 30 inches (76 cm), whichever is less, were not equipped with at least one handrail and one stair rail system along each unprotected side or edge:

On or about: 5/14/2014

Location: Senior building, 5th floor.

a) Employees used the stairwell which was not equipped with a stairrail system along each unprotected side or edge.

NOTE: Because abatement of this violation is already documented in the inspection case file, the employer need not submit certification or documentation of abatement for this violation as normally required by 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$2000.00

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
Issuance Date: 11/07/2014



Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Citation 2 Item 1 Type of Violation: **Other-than-Serious**

29 CFR 1926.502(b)(9): The employer failed to ensure that wire rope used as a top rail was flagged at 6-foot intervals with high-visibility material;

On or about: 5/14/2014

Location: Senior building

- a) The wire rope used as the top rail on the 4th floor was not flagged at 6 foot intervals.
- b) The wire rope used as the top rail on the 5th floor was not flagged at 6 foot intervals.

On or about: 5/14/2014

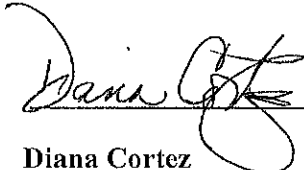
Location: Family building, 6th floor.

- c) The wire rope used as the top rail on the 5th floor was not flagged at 6 foot intervals.
- d) The wire rope used as the top rail on the 6th floor was not flagged at 6 foot intervals.

NOTE: Because abatement of this violation is already documented in the inspection case file, the employer need not submit certification or documentation of abatement for this violation as normally required by 29 CFR 1903.19.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00


Diana Cortez

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 977714
Inspection Date(s): 05/14/2014 - 05/27/2014
Issuance Date: 11/07/2014



Citation and Notification of Penalty

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701

Area Director

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration
660 White Plains Rd
4th Floor
Tarrytown, NY 10591
Phone: 914-524-7510 Fax: 914-524-7515



INVOICE / DEBT COLLECTION NOTICE

Company Name: SNE-MPCC-Mengler J.V.,LLC
Inspection Site: 33 Ashburton Ave., Yonkers, NY 10701
Issuance Date: 11/07/2014

| | |
|---------------------------------------------------|-------------------|
| Summary of Penalties for Inspection Number | 977714 |
| Citation 1, Serious | \$13600.00 |
| Citation 2, Other-than-Serious | \$0.00 |
| TOTAL PROPOSED PENALTIES | \$13600.00 |

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$50,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will cash the check or money order as if these restrictions or conditions do not exist.

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed

account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Diana Cortez

Area Director

11/10/14

Date

U.S. Department of Labor Occupational Safety and Health Administration
660 White Plains Rd,
4th Floor
Tarrytown, NY 10591
Phone: 914-524-7510 Fax: 914-524-7515



11/07/2014

SNE-MPCC-Mengler J.V.,LLC
1944 Route 22
Brewster, NY 10509

Dear Mr. Sisca:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000) revised 1990, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dated together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

As indicated on page 8 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

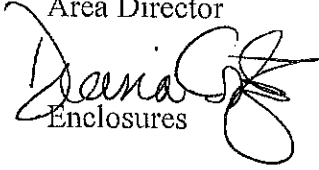
If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of the citation. The running of this contest period is not interrupted by an informal conference. You must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.

Sincerely:

Diana Cortez
Area Director


Enclosures